

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Johnny Anderson Simms

Docket No. 7:05-CR-143-1D

Petition for Action on Supervised Release

COMES NOW Henry Ponton, Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Johnny Anderson Simms, who, upon an earlier plea of guilty to Possession of a Firearm by a Felon in violation of 18 U.S.C. § 922 (g)(1) & 924, was sentenced by the Honorable James C. Dever III, Chief U.S. District Judge, on December 19, 2006, to the custody of the Bureau of Prisons for a term of 120 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 36 months.

Johnny Anderson Simms was released from custody on October 10, 2014, at which time the term of supervised release commenced. A Violation report was submitted to Your Honor on October 28, 2014 advising that Mr. Simms tested positive for Cocaine. No action was taken by Your Honor to allow the defendant an opportunity to comply with substance abuse testing and treatment. He was placed in outpatient treatment at Reality Counseling in Lumberton, NC and in the SUP random urinalysis testing program.

On November 16, 2015, a Violation Report was submitted to Your Honor advising that Mr. Simms had an additional positive test for Cocaine. As a sanction, the defendant was ordered to confinement with the Bureau of Prisons for a period of 2 days.

On November 4, 2016, a Violation Report was submitted to Your Honor advising that Mr. Simms was charged in Robeson County, NC with new charges including Assault on a Female and Hit and Run. The victim of the alleged assault was Ms. Yvonne Bowden. Mr. Simms was previously involved in a relationship with the victim. He was previously instructed not to have contact with Ms. Bowden, as she has an extensive criminal history. He also submitted a third positive test for Cocaine. USPO Thomas Sheppard requested that Your Honor defer action until the pending charges were resolved.

On December 25, 2016, a Violation Report was submitted to Your Honor advising that the defendant did not complete the inpatient substance abuse treatment program at Men's Recovery. He returned to outpatient substance abuse treatment at Reality Counseling in Lumberton, NC. The frequency of his drug testing in the SUP random urinalysis program has been increased. At this time, he is compliant with treatment and abstaining from the use of illegal substances.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

The defendant appeared in Robeson County District Court on January 27, 2017. At that time, he pled guilty to the charge of misdemeanor Assault on a Female. Mr. Simms was convicted and sentenced to two years of supervised probation with the State of North Carolina. The misdemeanor Hit and Run was dismissed. As a sanction, it is recommended that the defendant be placed under a curfew in the location monitoring program for 60 days. Additionally, it is recommended that the defendant have no further contact with the victim in this case, Yvonne Bowden. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

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PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall adhere to a curfew as directed by the probation officer for a period not to exceed 60 consecutive days. The defendant is restricted to residence during the curfew hours. The defendant shall submit to the following Location Monitoring: Radio Frequency monitoring and abide by all program requirements, instructions and procedures provided by the supervising officer.
2. The defendant shall have no direct or indirect contact, at any time and for any reason, with the victim(s), the victim's family, or affected parties in this matter unless provided with specific, written authorization in advance by the U.S. Probation Officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith
Eddie J. Smith
Supervising U.S. Probation Officer

/s/ Henry Ponton
Henry Ponton
Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: 910-354-2536
Executed On: January 27, 2017

ORDER OF THE COURT

Considered and ordered this 8 day of February, 2017, and ordered filed and made a part of the records in the above case.

James C. Dever
James C. Dever III
Chief U.S. District Judge